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|---|---------------|----------------------|---------------------|------------------|
| APPLICATION NO.   | FILING DATE   | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/594,646  | 09/27/2006    | Hai Zhang            | 11005.0263-00       | 1623             |
| 22852   | 7590          | 10/01/2010           | EXAMINER            |                  |
| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER<br>LLP<br>901 NEW YORK AVENUE, NW<br>WASHINGTON, DC 20001-4413 |               |                      | NGO, CHUONG A       |                  |
| ART UNIT  | PAPER NUMBER  |                      |                     |                  |
|   |               | 2617                 |                     |                  |
| MAIL DATE   | DELIVERY MODE |                      |                     |                  |
| 10/01/2010  | PAPER         |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/594,646

**Examiner**

CHUONG A. NGO

**Applicant(s)**

ZHANG, HAI

**Art Unit**

2617

**—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**

THE REPLY FILED 20 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: 8,13 and 20

Claim(s) rejected: 1,3-6,9-12,14-17 and 21-25

Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13.  Other: \_\_\_\_\_

/CHUONG A NGO/  
 Examiner, Art Unit 2617

/KAMRAN AFSHAR/  
 Primary Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because: 1. Applicant's arguments filed September 20, 2010 have been fully considered but they are not persuasive.

2. Applicant argued the same subject matter as Examiner already addressed in the Final action sent on July 19, 2010. Examiner very kindly directs the Applicant again to where Hwang discloses i.e. "verifying, by the SGSN before sending a Create MBMS Context Request, whether the MBMS bearer capabilities of the UE are less than Required MBMS Bearer Capabilities if the SGSN has the Required MBMS Bearer Capabilities" (see [0009], where Hwang discusses the GGSN 105 is connected to the BM-SC 106 via a Gi interface. The BM-SC 106 is connected to the contents provider 109 via a Gn/Gp interface, and performs authentication on the contents provider 109, quality decision on an MBMS service, therefore, SGSN is verify the MBMS Bearer Capabilities and also see [0040], [0069], where Hwang discusses MBMS Bearer service as the TRNC 330 transmits radio bearer (RB) information needed when the TRNC 330 provides the MBMS service), "wherein the Required MBMS Bearer Capabilities are used to identify the maximum QoS ability of the MBMS service requested by the UE" (see [0009], where Hwang discusses the GGSN 105 is connected to the BM-SC 106 via a Gi interface. The BM-SC 106 is connected to the contents provider 109 via a Gn/Gp interface, and performs authentication on the contents provider 109, quality decision on an MBMS service, therefore, used to identify the maximum QoS ability of the MBMS service requested by the UE) and "rejecting, by the SGSN, the request for activating an MBMS Context if the MBMS bearer capabilities of the UE are less than the Required MBMS Bearer Capabilities, or creating the MBMS UE Context if the MBMS bearer capabilities of the UE are not less than the Required MBMS Bearer Capabilities" (see [0051]. Upon receiving the Authentication confirm message, the TRNC 430 analyzes information included in the received Authentication confirm message, and transmits an RRC connection reject message to the UE 410 along with MBMS Service ID indicating a type of the MBMS service that the UE 410 will receive and RB information necessary for the MBMS service (RRC connection reject [RB info, Service ID]) (Step 419).

3. Examiner carefully reviewed and has been considered but the cited prior arts cover all the claims limitations of the invention. Therefore, the examiner maintains the final rejection and recommends that the applicant amends the claim(s) to distinguish over the prior arts for further execution..